



Appeal Decision

Site visit made on 21 February 2018

by D R Cullingford BA MPhil MRTPI

an Inspector appointed by the Secretary of State for the Ministry of Housing, Communities and Local Government

Decision date: 13 April 2018

Appeal Ref: APP/M0933/W/17/3186066

Land adjacent to Daisy Hill Cottage, Great Urswick, Ulverston, Cumbria, LA12 0ST

- This appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is by Mr and Mrs S Swarbrick against the decision of the South Lakeland District Council.
 - The application (ref: SL/2017/0335 and dated 11 April 2017) was refused by notice dated 30 June 2017.
 - The development is described as the 'erection of new self-build dwelling and alterations of vehicular access'.
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Application for costs

1. An application for costs was made on behalf of the appellants against the South Lakeland District Council. This application is the subject of a separate Decision.

Decision

2. I dismiss this appeal.

Main issue

3. From what I have read and seen, I consider that this appeal turns on:
 - i) whether the proposal, located as it is beyond the development boundary, would be warranted or whether it would spoil the street scene by obliterating a vista across open agricultural land and removing 3 protected young sycamores; and,
 - ii) whether the access arrangements proposed would be adequate and safe.

Reasons

4. The site is an incursion of grazing land amongst the collection of roadside cottages and the occasional bungalow in Great Urswick that wrap around the northern edge of Urswick Tarn. It rises quite steeply behind the stone roadside wall to a field hedge on the sky line that screens the long narrow fields beyond and it forms a verdant gap of some 28m between Daisy Hill Cottage (to the east) and Urswick Hall Cottage (to the west). A 3m gap in the stone wall is the result of a permission granted in 2013 to create an agricultural vehicular access into the field and the 3 young sycamores planted some 5-7m behind the wall are the result of a consent to fell 3 mature and protected sycamore trees in 2011; the replacement trees are similarly protected by Tree Preservation Order.
 5. The proposal entails the erection of a detached 2-storey dwelling set back behind the stone boundary wall by some 3.5m; it would be of a simple and
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traditional design built in traditional materials. Direct access to each of 3 parking spaces is shown to the east of the dwelling extending quite close to the side walls of Daisy Hill Cottage: access to a ramp for vehicles to reach the 'paddock' to the rear is shown beside the east elevation of the proposed dwelling. It is explained that the 3 protected sycamore trees would be removed in exchange for new tree planting in the paddock. It is also explained that Mr Swarbrick wishes to build this house himself, and has applied for a self-build exemption through the CIL Regulations.

6. On the first issue, it is clear that the appeal site lies outside the identified development boundary and thus in the countryside beyond Great Urswick. The proposal would fulfil none of the purposes warranting a countryside location under policy CS1.2 of the adopted Core Strategy nor could it be 'infilling' or 'rounding off' as that policy confines those forms of development to smaller settlements without development boundaries. Nor is it evident that further exceptions should be made to accommodate the provisions of the Self-build and Custom Housebuilding Act 2015, the Self-build and Custom Housebuilding (Register) Regulations 2016 or the Housing and Planning Act 2016. As the Council explain, some 27 people are currently on the relevant Register, none of whom express an interest in the Great Urswick area where, in any case, sites for housing exist within the development boundary.
7. The claim is that the development boundary is illogical, being identical to that shown in the 1996 Local Plan and excluding, together with Urswick Hall Cottage (to the west), what might more naturally be an 'infill' site sustainably located within a 'local service centre'. Such a site should be especially suitable to accommodate local people (like the appellants) long associated with, and contributing to, the village. There is local support for the scheme and precedents provided by permissions elsewhere. The cottage would reflect local vernacular styles and the building itself would occupy only 50% of the site frontage.
8. Nevertheless, the development boundary is identified in policy LA1.1 of the Land Allocations DPD 2013 adopted as part of the Development Plan after substantial consultation, review and public examination. And, as indicated above, the various provisions for building beyond development boundaries for local people, businesses or communities are not met here. The Council point out that the site was purposely set beyond the development boundary due to its open nature and the trees on its frontage contributing to the character and appearance of the street scene, such features evoking a strong connection to the open countryside beyond. Indeed, my colleague commented on the appropriateness of such a relationship in dismissing an appeal concerning a previous proposal here in 2012 (APP/M0933/A/12/2176000). I concur, for it seems to me that this verdant incursion of grazing land not only contributes to the characteristic pattern of green spaces amongst the roadside cottages, but also serves to demonstrate the 'raw' rural setting of the village; those are features that evoke the local distinctiveness of the place. Hence, I do not agree that the development boundary here is illogical. On the contrary, I think that it serves a clear planning purpose. The fact that it remains the same as in the 1996 Local Plan does not demonstrate otherwise and the exclusion of Urswick Hall Cottage from the village (a dwelling apparently built in the 1970s) and its extensive curtilage properly denotes the severe restrictions appropriate there both in 1996 and now. The absence of any explicit 'review document' relating to the appeal site does not undermine the statutory examination process. As

for the precedents cited, they are clearly not entirely comparable, being within the domestic curtilages of existing dwellings, amongst other things. And, although the house would occupy about 50% of the site frontage, development would occupy the rest of the roadside including the 3 parking spaces, the retaining walls and the ramp to the remaining paddock. For those reasons, I consider that the intrusive impact of the scheme and the consequent loss of this verdant vista would diminish the local distinctiveness evident here, contrary to policy CS8.2.

9. The protected sycamore trees would be removed with the intention of replacing them in the paddock remaining to the rear along with undertaking a landscaping scheme. Although the specimens are currently quite small, they were planted to replace the mature protected trees previously felled and they are similarly protected so that they might grow into the prominent and attractive trees that originally made a sylvan contribution to the roadside scene. The Council's arboriculturist considers that the trees are doing well and that, technically, they could be translocated (or replaced elsewhere). However, that would entail removing the trees from the roadside and replanting them (or other specimens) some distance into the site and largely behind the proposed development where they would inevitably be less prominent and less conspicuous features in the street scene. In the absence of compelling reasons to justify such a harmful outcome, the proposal would be contrary to 'saved' policy C11, which seeks to prevent loss or damage to protected trees unless an overriding need can be demonstrated; for the reasons indicated above, no overriding need is evident here.
10. Taking all those matters into account, I consider that this scheme would constitute unwarranted development in the countryside beyond the designated boundary identified in the statutory Development Plan through policy LA1.1 and be contrary to policy CS1.2. It would spoil the street scene by obliterating a vista across open agricultural land contrary to policy CS8.2 and by removing 3 protected young sycamores from the roadside, contrary to 'saved' policy C11.
11. Turning to the second issue, the arrangements entail a direct access to each of the 3 parking spaces from the street as well as to a ramp beside the eastern flank wall of the proposed dwelling to the 'paddock' at the rear. It is claimed that the objection to the visibility achievable raises a new issue since this was not a reason given for rejecting a previous proposal in 2016 in respect of which the current scheme is intended as a resubmission. However, the current access arrangements are not identical to those previously proposed; the parking spaces have been relocated eastwards and are now shown closer to the flank wall of Daisy Hill Cottage partly, it appears, to provide an access to the 'paddock ramp' unobstructed by a parking space. Some reassessment of the resulting visibility is thus warranted. It is immediately obvious that the required visibility from any of the proposed parking spaces (no matter what guidance is used) cannot be achieved; the visibility eastwards (as properly measured along the carriageway edge) is very restricted with views of on-coming traffic obscured by the flank wall of Daisy Hill Cottage. It may well be that a visibility splay into the centre of the on-coming traffic stream (rather than along the carriageway) of 2.4m by 60m might be achievable at the western-most parking space. But that could certainly not be achieved at the space beside Daisy Hill Cottage where such a visibility splay would be barely half the safe distance advised in Manual for Streets to accommodate traffic speeds of 30mph.

12. Furthermore, in the absence of any obvious turning facility within the site, use of the parking spaces proposed would entail drivers reversing within the street either out of, or into, the plot. The suggestion that the access to the 'paddock ramp' might serve as an on-site turning facility is not borne out by the geometry of such a manoeuvre and, in any case, I think that it would largely depend on certain parking spaces being vacant. Although traffic on this C-class rural road may often be slow and light, residents suggest that that is not always the case and I saw for myself that delivery vehicles can sometimes pass through the village at speeds close to the speed limit. Moreover, some cottages in the vicinity of the appeal site have no off-street parking facility, so that cars are parked on the roadside, thereby reducing the effective visibility at the appeal site still further. Essentially, the inherent hazards of reversing into or out of these parking spaces directly into the potential path of on-coming traffic amongst parked cars formed the basis of the fourth reason for refusing the previous scheme in 2016. Those defects still apply to the appeal proposal. Of course, similar defects also occur at some (but not all) of the existing dwellings here, particularly the traditional cottages, and it may be that the benefits of re-using an existing building could warrant similar arrangements elsewhere. But, those considerations do not apply to the erection of a new-build dwelling on the appeal site.
13. For those reasons, I consider that the access arrangements proposed would be inadequate and unsafe, thereby adding to the hazards faced by road users, contrary, in particular, to policy CS10.2.
14. I have considered all the other matters raised. They reveal some odd and unacceptable muddles. The claim that felling the trees and creating the agricultural access has altered the site from what it was in 1996 so that it now warrants re-designation as an 'infill' plot, sits oddly with the complaint that the Committee should not take such matters into account. The assertion that the site (and the lower part of the paddock) has no use because of the appellants' inability to gate the access or fence the paddock does not chime with the expressed desire (or the appellants' past experience) to construct a 'self-build' house here. The reference to the unsuitability of the site for crops does not encompass its obvious and long established use as grazing land. The erroneous statement that the access arrangements have previously been deemed to be acceptable is clearly contradicted by the fourth reason for refusing the previous scheme. And, the denouncement of the objections from local residents as personal attacks on the appellants is not reflected in the planning matters and planning policies referred to in almost all the objections made in connection with this appeal. Indeed, most of the personal accusations that I have read come from the supporters of the proposal. I note that residential development here has been refused by the Council on 3 previous occasions, one of which was supported at appeal. I am afraid that I too find nothing sufficiently compelling to alter my conclusion that this appeal should be dismissed.

David Cullingford
INSPECTOR